DIGEST

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Morrish SB No. 225

Proposed law revises the Medical Necessity Review Organization (MNRO) Act, as follows:

(1) Alters the definition of "adverse determination" and changes the definition of "emergency medical condition" to include "urgent medical condition". Also substitutes the definition of "independent review organization" for that of "external review organization".

(2) Prohibits a health insurance issuer (issuer), MNRO, or independent review organization (IRO) from charging a fee or requiring any type of payment by the covered person or his authorized representative for any external review, making the costs of such reviews the responsibility of such entities. Also prohibits such entities from imposing a minimum dollar limit or other minimum threshold for the filing of any appeal.

(3) Further requires an issuer to provide a written description of the external review process in any summary plan description, policy, certificate, booklet, outline of coverage, or other similar evidence of coverage provided to a covered person.

(4) With respect to standard appeals, changes the time within which a MNRO is required to notify in writing both the covered person and his health care provider (provider) of an adverse determination. If an external appeal is called for, requires that the written decision include a description of the process to obtain an external appeal. For an individually underwritten policy or contract, provides that the next level of appeal for any covered person shall be the external review and that this requirement shall also apply for expedited appeals with notice of this right to the covered person.

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(5) Present law requires each health benefit plan to provide an independent review process to examine the plan's coverage decisions based on medical necessity. Further provides a covered person with the concurrence of the treating provider to make a request for an external review of a second level appeal of an adverse determination.

Proposed law additionally requires an independent review process to examine the health plan's coverage decisions based on medical judgment. Further deletes requirement for concurrence of the treating provider.

(6) Present law permits an external review of an adverse determination before the covered person has exhausted the MNRO's appeal process if the covered person has an emergency medical condition or the MNRO waives these appeals.

Proposed law additionally so permits an external review if: the covered person has an urgent medical condition; if he is enrolled for covered benefits in the individual health insurance market; if the health benefit plan has failed to comply with the requirements of the internal appeals process specified in present law, excluding certain de minimus violations; or if the covered person simultaneously requests both an expedited internal and an expedited external review.

(7) Changes the period of time within which a covered person whose medical care was the subject of an adverse determination to file a request for external review with the MNRO from 60 to 120 days. Also requires notification of the covered person of his right to submit additional information.

(8) Proposed law requires the IRO to consider any additional information submitted in writing by the covered person or his authorized representative in reaching a decision

or making a recommendation. Further requires the IRO to allow the covered person at least five business days to submit additional information which must be forwarded to the MNRO within one business day of its receipt.

(9) Present law requires the IRO to provide notice of its recommendation to the MNRO, the covered person or his representative, and the covered person's provider within 30 days after the date of receipt of the second level determination information subject to external review.

Proposed law requires that the notice be written and that it be provided within 45 days after the date of the receipt of the request for the external review.

(10) Requires the commissioner to maintain a list of authorized IROs and to provide for the timely designation of such an organization using a method that assures the independence and impartiality of the designation. Further prohibits the issuer, MNRO, or covered person from selecting the IRO. Also requires that these provisions apply to all external reviews.

(11) Present law requires an expedited external appeal of an adverse determination in certain time-sensitive cases, as initiated by the covered person with the consent of his provider. Further requires that in cases involving an emergency medical condition, the request for an expedited review be made by his provider at the time the covered person receives the adverse determination. Also requires the IRO to make a determination within 72 hours after receiving appropriate medical information.

Proposed law specifies that such an expedited external appeal is required in any situation involving an emergency of urgent medical situation and does not require initiation with the consent of the provider. Further requires that in cases involving an emergency or urgent medical condition, the request for an expedited review be made by the covered person at any time after he receives the adverse determination. Also requires the IRO to make a determination within 72 hours after receiving the request for review.

(12) Allows an IRO to provide timely notice verbally to the covered person, the MNRO, and the covered person's provider but also requires written confirmation to these same parties within 48 hours of the time of the verbal notice.

(13) Requires an IRO to achieve accreditation by a nationally recognized private accrediting organization and demonstrate ability to conduct specific types of review based on the nature of the health care services that are subject of reviews.

(14) Requires an IRO to maintain written records of cases it reviews for a minimum of three years and to make such records available upon request by the commissioner. Also specifies the information about such cases to be included in such records.

(15) Prohibits a health insurance issuer from acting as an IRO. Also prohibits certain material, professional, familial, or financial interests by an IRO or any person conducting reviews on its behalf.

(16) Present law contains provisions relative to medical necessity determinations for emergency services.

Proposed law provides that these same provisions apply to urgent services.

(17) Present law provides for appeal and external review of experimental or investigational determinations.

Proposed law allows a covered person or his representative to request a standard or expedited external review of any adverse determination made under such reviews.

18. Present law sets criteria for an item or health care service deemed to be experimental or investigational in an adverse determination to be eligible for the second level internal appeal or external review process. Includes among such criteria that the

allowable charge designated by the health insurance issuer shall be greater than $500 and that it be approved by the federal Food and Drug Administration or that use of the item or health care service be supported by medical or scientific evidence.

Proposed law deletes the $500 requirement and adds any of the following criteria: (a) that the service would otherwise be covered under the plan and is not specifically excluded, except for being considered as experimental or investigational; (b) that the treating physician certifies certain factors, including that the experimental or investigational treatment is likely to be more beneficial, in his opinion, than any standard treatment; or (c) that the commissioner determines that a claim is eligible for external review.

19. Provides that health insurance issuers' internal appeals processes shall be required to comply with certain provisions of the Patient Protection and Affordable Care Act (PPACA) and any federal regulations or subsequent regulations issued by the U. S. Department of Labor and the U.S. Department of Health and Human Services.

Effective 30 days after a final, non-appealable judgment by the United States Supreme Court that includes the merits of the provisions of Section 2719 of the Public Health Service Act and that affirms the validity of such provisions, together with any and all federal regulations promulgated in accordance therewith by any federal agency.

Further provides that proposed law shall become null and void immediately upon Congressional repeal of Section 2719 of the Public Health Service Act.

(Amends R.S. 22:1122(1),and (15), 1130(C)(intro. para.), 1132(A) and (B)(intro. para. and (1), 1133, 1134(A) and (C), 1135(A), (B), and (D)(intro. para.), 1137(A), 1139(A), (B), and (C), and 1144(A) and (B); Adds R.S. 22:1122(27.1), 1128(H) and (I), 1130(C)(5) and (D), 1132(B)(3), (4), and (5), 1135(E), 1137(E), (F), and (G), and 1144.1; Repeals R.S. 22:1122(18))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Makes technical changes.

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Insurance to the reengrossed bill.

1. Changes the definition of "emergency medical condition" to include "urgent medical condition".

2. Adds prohibition against charging a fee or imposing a threshold for filing appeals on covered persons.

3. Requires an issuer to provide a written description of the external review process in any evidence of coverage provided to a covered person.

4. Changes time period for notification of an adverse determination and provides with respect to when the next level of review from a standard appeal is an external review.

5. Expands situations which permit an external review of an adverse determination before the covered person has exhausted the MNRO's appeal process.

6. Provides that the IRO's notice of its recommendation to the MNRO, the covered person, and his provider be written and provided within 45 days after the date of the receipt of the request for the external review.

7. Adds that the requirement that the commissioner provide for the timely designation of IRO and the prohibition of the issuer, MNRO, or covered person from selecting the IRO both apply to all external reviews.

8. Specifies that an expedited appeal is required in any situation involving an emergency or urgent medical situation and does not require initiation with the consent of the provider.

9. Allows a covered person to make a request for an expedited external review at any time after receipt of the adverse determination involving an urgent or emergency medical condition.

10. Allows an IRO to provide timely notice verbally to the covered person, the MNRO, and the covered person's provider but also requires written confirmation to these same parties within 48 hours of the time of the verbal notice.

11. Specifies the information about its cases to be included in the records of an IRO.

12. Adds prohibition against a health insurance issuer acting as an IRO. Also prohibits certain material, professional, familial, or financial interests by an IRO or any person conducting reviews on its behalf.

13. Provides that present law provisions relative to medical necessity determinations for emergency services also apply to urgent services.

14. Allows a covered person or his representative to request a standard or expedited external review of any adverse determination made with regard to appeal and external review of experimental or investigational determinations.

15. Provides for additional criteria for an item or health care service deemed to be experimental or investigational in an adverse determination to be eligible for the second level internal appeal or external review process.

16. Adds requirement that health insurance issuers' internal appeals processes shall comply with PPACA and any related federal regulations or subsequent regulations.